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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,098	03/31/2004	Srinivasan Balasubramanian	4740-299	7305
24112 7590 06/20/2007 COATS & BENNETT, PLLC 1400 Crescent Green, Suite 300 Cary, NC 27518			EXAMINER NGUYEN, HUY D	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 06/20/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/814,098

Applicant(s)

BALASUBRAMANIAN ET AL.

Examiner

Huy D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) 2-16 and 27-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 17, 20, 25, 26, 41, 44 and 48-53 is/are rejected.
- 7) ☒ Claim(s) 18-19, 21-24, 42-43, 45-47 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 3/27/2007 have been fully considered but they are not persuasive.

The applicant submitted that Oleynik has nothing to do with broadcast service which, defined in the applicant's specification as BroadCast-MultiCast-Service (BCMCS), provides BCMCS stream to multiple users simultaneously.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., BroadCast-MultiCast-Service) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 25-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Oleynik (U.S. Patent No. 6,853,675).

Regarding claims 1, 26, Oleynik teaches a method of providing broadcast services in a wireless communication network, comprising: a. transmitting a broadcast stream originating at a content provider (e.g., DSSS transmitter 300 – see fig. 4) to one or more mobile stations (e.g., DSSS receiver 200 – see fig. 4) over a forward link broadcast channel (e.g., SS broadband signal - see fig. 4); b. monitoring utilization of forward link air interface resources (e.g., the calculated ratio of instantaneous signal power to the minimum instantaneous acceptable signal power – see column 15, lines 47-48); and c. dynamically adjusting (e.g., change the signal power during the next data transmission – see column 15, lines 52-53) the forward link air interface resources allocated to the broadcast stream responsive to changes in the utilization of forward link air interface resources; and d. scaling (e.g. adjust its transmission power level – see column 17, lines 3-4) the quality of the broadcast stream responsive to adjustments to the allocated forward link air interface resources (see column 15, lines 43-53).

Regarding claim 25, Oleynik teaches the method of claim 1 wherein scaling the quality of the broadcast stream comprises adapting (e.g. adjust its transmission power level – see column 17, lines 3-4) the content of the broadcast stream to the allocated forward link air interface resources.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 17, 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oleynik in view of McGowan et al. (US 2004/0106423 A1).

Regarding claims 17, 41, Oleynik teaches the method of claim 1 except further comprising transmitting broadcast service parameters to the mobile stations to indicate the forward link air interface resources dedicated to the broadcast stream. However, the preceding limitation (e.g., base station sending a frame error rate target to the mobile station – see paragraph [0027] and the abstract) is taught in McGowan et al. It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the teaching of McGowan et al. to the teaching of Oleynik to efficiently use the assigned spectrum.

6. Claims 20, 44, 48-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oleynik in view of McGowan et al. and in further view of Diachina et al. (US 2003/0179738 A1).

Regarding claims 20, 44, the combination of Oleynik in view of McGowan et al. teaches the method of claim 17 except wherein the broadcast service parameters transmitted to the mobile stations include an action time parameter indicating in advance when the broadcast parameters will be effective. However, the preceding limitation is taught in Diachina et al. (see claim 47). . It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the teaching of Diachina et al. to the teaching of Oleynik and McGowan et al. to provide information in a timely and bandwidth-efficient manner.

Claims 48 and 51 are rejected with the same reasons as those in claim 20.

Regarding claims 49, 52, McGowan et al. teaches the method of claim 48 wherein the new session parameters indicate a change in the quality of the broadcast stream (e.g., base station sending a frame error rate target to the mobile station – see paragraph [0027] and the abstract).

Regarding claims 50, 53, McGowan et al. teaches the method of claim 48 wherein the new session parameters indicate a change in the air interface resources used to deliver the broadcast stream (e.g., base station sending a frame error rate target to the mobile station – see paragraph [0027] and the abstract).

#### ***Allowable Subject Matter***

7. Claims 18-19, 21-24, 42-43, 45-47 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,


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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy D. Nguyen whose telephone number is 571-272-7845. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph H. Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Huy D Nguyen  
Patent Examiner  
Art Unit 2617

  
JOSEPH FEILD  
SUPERVISORY PATENT EXAMINER